

The 2005 Legislature enacted a law, effective October 1, to make it a crime for a day care provider to purposely or knowingly administer medications that result in bodily injury or death to a child in the provider's care without written authorization from a parent, with few exceptions. The change in law was triggered by the tragic death of 1-year old Dane Heggem following the administration of an over-the-counter cold medicine by his day care provider. The day care provider was recently convicted of negligent homicide for Dane's death and two counts of criminal endangerment for medicating two other children who were not injured.

Written authorization from the parent must include the child's name, date or dates for which the authorization is applicable, dosage instructions, and the parent's signature. In emergencies, the law allows a medical practitioner to provide written authorization, or medical practitioners or emergency services providers to give verbal direction for administration of medication to be followed by care by a medical practitioner or health care facility.

Any future incident would now be charged under the new law, 52-2-736, MCA. If the administration of the medicine results in bodily injury, the conviction would be a misdemeanor with a maximum penalty of 6 months or \$500, or both. If serious bodily injury or death occurs, the conviction would be a felony with a maximum penalty of 20 years and a fine not to exceed \$50,000--the same penalty as negligent homicide.

Currently, in administrative rule there is a requirement that day care providers must have written authorization from parents before they can administer medications. The Department of Public Health and Human Services are working on updating the administrative rules.